

OCT 24 2005

By facsimile 1-571-273-8300 - 4 pages

File No. 16051-5US CC/

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Andrew VAILLANT et al.
Serial number: 10/661,099
Filing date: September 12, 2003
For: ANTIVIRAL OLIGONUCLEOTIDES TARGETING HIV
Art Unit: 1648
Examiner: Louise Z. WANG
Agent: Cawthorn, Christian

RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
U. S. A.

Sir:

In response to the Office Action dated August 24, 2005 in connection with the above-identified patent application please consider the following remarks. This response is being filed concurrently with a petition for a 1-month extension of time.

In response to the Outstanding Restriction Requirement, Applicants elect with traverse group 1, drawn to claims 1-2 and 14-32.

The Restriction Requirement is respectfully traversed with respect to Groups I, II, and IV, as Applicants respectfully submit that there is unity of invention between these groups, i.e., a method and composition for treating HIV infections.

Furthermore, it is respectfully submitted that Groups I and IV pertain to the same class and subclass and, therefore, it would not impose a serious burden on the Examiner to examine all these inventions. Additionally, the Examiner opens the door to re-grouping Groups I and II when stating that the method and claims would both belong to the same invention if Applicants can show that the composition cannot be used other than with the method, and vice-versa. Currently, no treatments of HIV infections are available. Thus the only way to carry out the method of the present invention is with the composition of the present invention.

Under the statute, an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are

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Assistant Commissioner for Patents

either independent (MPEP Subsection 806.04 to Subsection 806.04(j) or distinct (MPEP Subsection 806.05 to Subsection 806.05(i)).

According to the MPEP, there are two criteria for proper requirements for restriction between patentably distinct inventions:

- 1) The inventions must be independent (see MPEP Subsection 802.01, Subsection 806.04, Subsection 808.01) or distinct as claimed (see MPEP Section 806.05 to Subsection 806.05 (i)); and
- 2) There must be a serious burden on the Examiner if restriction is not required (see MPEP Subsection 803.02, Subsection 806.04(a)-(j), Subsection 808.01(a) and Subsection 808.02).

It is believed that the inventions, as defined in the claims now on file would not cause a serious burden to the Examiner upon searching.

In this respect, the Examiner will find the common utility to each of these sequences throughout the application and also in the preamble of the claims.

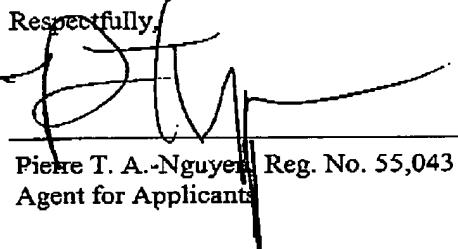
In view of the above, withdrawal of the restriction requirement and examination of claims 1-32 and 38 on the merits are respectfully requested.

Turning to the species election, Applicants hereby elect to have sequences REP 2015 and REP 2031 as detailed in Table I examined.

In the event that there are any questions concerning this Response, or the application in general, the Examiner is respectfully urged to telephone the undersigned so that prosecution of the application may be expedited.

Respectfully,

By:


Pierre T. A. Nguyen Reg. No. 55,043
Agent for Applicants

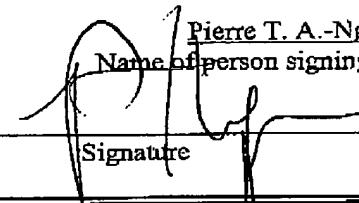
Date: October 24, 2005

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Assistant Commissioner for Patents**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this paper is being facsimile transmitted to the Patent and Trademark Office on the date shown below.


Pierre T. A.-Nguyen
Name of person signing certification

October 24, 2005
Date

Signature